

Amendments to the Drawings

The attached sheets of drawings include changes to Figure 4 adding reference numeral 14, corresponding to the proximal region, and reference numeral 16, corresponding to the distal region.

Attachment: Three (3) Replacement Drawing Sheets
Annotated Sheets Showing Changes Made

Remarks/Argument

Applicants have received and carefully reviewed the Office Action of the Examiner mailed May 28, 2008. Currently, claims 16-20 and 22-32 remain pending. Claims 16-20 and 22-32 have been rejected. Reconsideration of the following remarks is respectfully requested.

Response to Amendment

On page 2 of the Final Office Action, the Examiner noted that the Remarks section of the Amendment filed on April 14, 2008, stated that claim 21 was cancelled, but the Amendment to Claims section did not reflect this cancellation. With this Amendment, Applicants have corrected the Amendment to Claims section indicating claim 21 as cancelled.

Drawings

On page 2 of the Office Action, the Examiner objected to the drawings under 37 CFR 1.83(a) for failing to show each and every feature of the invention specified in the claims. In particular, the Examiner asserted that the limitation “wherein the distal shaft portion has fewer axial members than the proximal shaft portion” is not found in the drawings. While Applicants believe that this limitation is clearly shown in the drawing, to further clarify the drawings, Applicants have amended Figure 4 to include reference numeral 14, corresponding to the proximal region, and reference numeral 16, corresponding to the distal region. As can be clearly seen in Figure 4, the proximal region 14 shows two groups of axial members 34 and the distal region 16 shows one group of axial members 34. This clearly shows the distal shaft portion having fewer axial members than the proximal shaft portion. Therefore, the drawings are believed to show each and every feature of the invention specified in the claims. Withdrawal of the rejection is respectfully requested.

Claim Rejections Under 35 U.S.C. §102

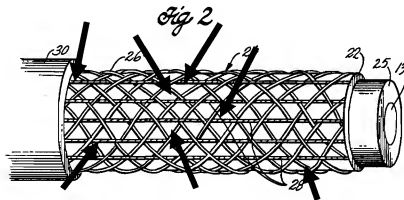
On page 3 of the Final Office Action, claims 16-17, 20, 22, 24, and 29-39 were rejected under 35 U.S.C. §102(b) as being anticipated by Webster, Jr. (U.S. Patent No. 5,057,092). After careful review, Applicant must respectfully traverse this rejection.

Turning to claim 16, which recites:

16. (previously presented) An intravascular catheter comprising an elongate shaft having a reinforcement layer comprising a tubular braid having a first helical member interwoven with a second helical member and a plurality of axial members disposed between the first helical member and the second helical member for the entire length of the axial member.

Nowhere does Webster, Jr. appear to teach or suggest at least “a plurality of axial members disposed between the first helical member and the second helical member for the entire length of the axial member.” (emphasis added).

Instead, Webster, Jr. appears to teach an intravascular catheter including an elongated catheter body having a flexible plastic inner wall 22, a braided reinforcing mesh 24 surrounding the inner wall 22, and a flexible plastic outer wall 30 surrounding the reinforcing mesh 24. The braided reinforcing mesh 24 appears to include interwoven helical members 26 and longitudinal warp members 28. However, Webster, Jr. does not appear to teach or suggest the longitudinal warp members 28 disposed between a first and a second helical member 26. Instead, as can be clearly seen in Figures 2 and 5, there appears to be instances in which the longitudinal warp member 28 is not disposed between the helical members 26, but is disposed external to or internal to the helical members 26. To further illustrate this, Applicant has reproduced Figure 2 below including arrows indicating example portions of the braided reinforcing mesh 24 where the longitudinal warp member 28 is not disposed between the helical members 26, but is external to the helical members 28.



As can be clearly seen, the longitudinal warp members 28 are clearly not disposed between the helical members 24 for the entire length of the longitudinal warp member 28.

As the Examiner is well aware, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (MPEP § 2131). Clearly, Webster, Jr. fails to teach each and every element of claim 16.

Additionally, in the Final Office Action, the Examiner asserted that the limitation “for the entire length of the axial member” is a functional limitation and does not impose any structural limitation upon the claimed apparatus. Applicant must respectfully disagree. Clearly, the disposition of the axial member between the first and the second helical member for the entire length of the axial member is a structural feature of the catheter braid. Such a limitation requires the axial member to be internal to one of the first and second helical members and external to the other of the first and second helical members along the entire length of the axial member. Therefore, Applicants respectfully submit that “for the entire length of the axial member” is a structural limitation and the failure of the Examiner to consider this limitation is clear error.

Therefore, for at least these reasons, claim 16 is believed to be not anticipated by Webster, Jr. Furthermore, there appears to be no reason to modify the teachings of Webster, Jr. to arrive at the claimed invention. Thus, claim 16 is clearly patentable over Webster, Jr. For at least similar reasons and other, claims 17, 20, 22, and 24, which depend from claim 16 and include additional limitations, are believed to be clearly patentable over Webster, Jr.

Turning to claim 29, which recites:

29. (previously presented) A method of making a portion of a shaft of an intravascular catheter, the method comprising the steps of:
braiding a first helical member and a second helical member about a carrier such that a plurality of axial members are disposed between the first and second helical members for the entire length of the axial member.

As discussed previously, nowhere does Webster, Jr. appear to teach or suggest “a plurality of axial members are disposed between the first and second helical members for the entire length of the axial member.” Therefore, for at least these reasons, claim 29 is believed to be clearly patentable over Webster, Jr. For similar reasons and others, claims 30-39, which

depend from claim 29 and include additional limitations, are believed to be clearly patentable over Webster Jr.

Claim Rejections Under 35 U.S.C. §103

On page 4 of the Final Office Action, claims 18-20, 31-32 were rejected under 35 U.S.C. §103(a) as being unpatentable over Webster, Jr. (U.S. Patent No. 5,057,092). After careful review, Applicant must respectfully traverse this rejection. As discussed previously, claims 16 and 29 are believed to be clearly patentable over Webster, Jr. Therefore, for similar reasons and others, and because claims 18-20 and 31-32 depend from claim 16 and claim 29, respectively, claims 18-20 are believed to be clearly patentable over Webster, Jr.

On page 5 of the Final Office Action, claims 23 and 25-28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Webster, Jr. (U.S. Patent No. 5,057,092) in view of Mortier et al. (U.S. Patent No. 5,730,733). After careful review, Applicant must respectfully traverse this rejection. As discussed previously, claim 16 is believed to be patentable over Webster, Jr. and nothing in Mortier et al. appears to remedy the above-noted shortcomings of Webster, Jr. Therefore, for at least these reasons, claims 23 and 25-28, which depend from claim 16 and include additional limitations, are believed to be clearly patentable over Webster, Jr. and Mortier et al.

Double Patenting Rejections

On page 6 of the Final Office Action, claims 16-32 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,709,429. Additionally, on page 6 of the Final Office Action, claims 16 and 22-30 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 4, 6-9, 11, 13-28 of U.S. Patent No. 6,942,654. Without conceding the correctness of this rejection, to move prosecution along in this case, a terminal disclaimer will be filed when the claims are otherwise indicated as allowable.

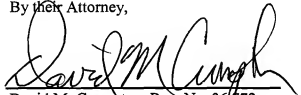
Conclusion

In view of the foregoing, all pending claims are believed to be in a condition for allowance. Reexamination and reconsideration are respectfully requested. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,
Dean A. Schaefer et al.

By their Attorney,

Date: 7/28/08

A handwritten signature in black ink, appearing to read "David M. Crompton", is written over a horizontal line.

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